

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

In the Matter of	)	
	)	
Amendment of Section 73.202(b),	)	MM Docket No. 01-254
Table of Allotments,	)	RM-10264
FM Broadcast Stations.	)	RM-10375
(Atoka, Haileyville and Clayton, Oklahoma) <sup>1</sup>	)	RM-10376
	)	
	)	
	)	

**REPORT AND ORDER**  
(Proceeding Terminated)

**Adopted: February 12, 2003**

**Released: February 18, 2003**

By the Assistant Chief, Audio Division:

1. Before the Audio Division for consideration is the *Notice of Proposed Rule Making* as indicated below, setting forth eight separate proposals to allot an FM channel to a specific community.<sup>2</sup> The above-captioned proceeding was issued in response to a petition filed by Maurice Salsa ("Petitioner"), requesting the allotment of Channel 290A to Atoka, Oklahoma, as that community's second local FM service.<sup>3</sup> Petitioner filed supporting comments in response to the *Notice*. Comments and a counterproposal were filed on behalf of Keystone Broadcasting Corporation<sup>4</sup> ("Keystone"), requesting the allotment of Channel 290A to Haileyville, Oklahoma, as that locality's first local aural service (RM-10375). An interrelated proposal was filed by Linda Crawford ("Crawford") requesting the allotment of Channel 289A to Clayton, Oklahoma, as that community's first local aural service (RM-10376).<sup>5, 6</sup> Keystone filed responsive comments in support of its counterproposal.

<sup>1</sup> The communities of Haileyville and Clayton, Oklahoma, have been added to the caption.

<sup>2</sup> As indicated above, the referenced *Notice* contained separate proposals to allot an FM channel to the following communities (*Atoka, Oklahoma, MM Docket No. 01-254; Wright City, Oklahoma, MM Docket No. 01-255; Benevides, Texas, MM Docket No. 01-256; Bad Axe, Michigan, MM Docket No. 01-257; Bearden, Arkansas, MM Docket No. 01-258; Grandin, Missouri, MM Docket No. 01-259; Pawhuska, Oklahoma, MM Docket No. 01-260; and Early, Texas, MM Docket No. 01-261*, 16 FCC Rcd 17072 (M.M. Bur. 2001)). The proposals set forth in the multiple *Notice* were not mutually exclusive with each other. A separate *Report and Order* has been issued in the Benavides, Texas proceeding (MM Docket No. 01-256), 17 FCC 2d 12800 (M.M. Bur. 2002), as well as the rule making requests at Bearden, Arkansas (MM Docket No. 01-258), 17 FCC 2d 12798 (M.M. Bur. 2002); and Grandin, Missouri (MM Docket No. 01-259, 17 FCC Rcd 12810 (M.M. Bur. 2002). In light of developments that have occurred in the Atoka, Oklahoma, proceeding, as noted *infra*, we are deciding MM Docket No. 01-254 separately from the remaining docketed proceedings contained in the *Notice*.

<sup>3</sup> Stations KHKC-FM (Channel 271A) and KEOR(AM) are also licensed at Atoka.

<sup>4</sup> Keystone is the licensee of Stations KHKC-FM and KEOR(AM), Atoka.

<sup>5</sup> The distance between Atoka and Haileyville is 80.2 kilometers (49.7 miles) whereas a minimum distance separation of 115 kilometers (71 miles) is required between Class A co-channel allotments. Crawford's proposal to  
(continued....)

Petitioner and Crawford each filed a motion to dismiss their proposals at Atoka and Clayton, Oklahoma, respectively.<sup>7</sup> No other comments were received.

2. As stated in the Appendix to the *Notice*, a showing of continuing interest is required before a channel will be allotted. It is the Commission's policy to refrain from making an allotment to a community absent an expression of interest. In this proceeding, since both the Petitioner and Crawford each have stated they no longer intend to pursue their allotment requests, we will dismiss both petitions for rule making.<sup>8</sup>

3. In view of the above, we will consider the remaining proposal filed by Keystone seeking the allotment of Channel 290A to Haileyville, Oklahoma. Keystone provided demographic information to establish that Haileyville is a community for allotment purposes. It is reported that Haileyville is an incorporated city that is listed in the U.S. Census with 891 people. It has its own local government led by a mayor and city council. City municipal services, as well as police and fire protection are provided to the citizens of Haileyville. The community also has its own school system, commercial businesses, churches, in addition to a U.S. Post Office (zip code 74546).

4. We believe that the public interest would be served by the allotment of Channel 290A at Haileyville, Oklahoma, as it will provide the community with its first local aural transmission service. A staff engineering study has determined that Channel 290A may be allotted at Haileyville, Oklahoma, consistent with the requirements of Section 73.207(b) of the Commission's Rules, provided the transmitter therefore is located at least 9.7 kilometers (6.0 miles) north of the community, utilizing coordinates 34-56-29 NL and 95-34-30 WL.

5. Accordingly, pursuant to the authority contained in Sections 4(i), 5(c)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and Sections 0.61, 0.204(b) and 0.283 of the Commission's Rules, IT IS ORDERED, That effective April 4, 2003, the FM Table of Allotments, Section 73.202(b) of the Commission's Rules, IS AMENDED under Oklahoma, to read as follows:

<u>City</u>	<u>Channel No.</u>
Haileyville, Oklahoma	290A

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allot Channel 289A to Clayton, Oklahoma, is not in conflict with Petitioner's proposal at Atoka. However, it is in conflict with Keystone's proposal at Haileyville. The distance between Clayton and Haileyville is 41.3 kilometers (25.6 miles) while a minimum distance separation of 72 kilometers (45 miles) is required between Class A first adjacent channels.

<sup>6</sup> Public Notice of Keystone's counterproposal at Haileyville, Oklahoma, and Crawford's interrelated proposal at Clayton, Oklahoma, was given February 8, 2002 (Report No. 2530).

<sup>7</sup> The withdrawal motions were filed consistent with the requirements of Section 1.420(j) of the Commission's Rules (47 C.F.R. § 1.420(j)). Petitioner and Crawford each state that they did not receive any consideration in connection with the requested dismissal of their petitions for rule making at Atoka and Clayton, Oklahoma, respectively.

<sup>8</sup> See, e.g., *Joshua Tree, California*, 4 FCC Rcd 3801 (M.M. Bur. 1989); *Bridport, Vermont*, 5 FCC Rcd 6172 (M.M. Bur. 1990); and *Alexander City, Alabama and West Point, Georgia*, 9 FCC Rcd 2823 (M.M. Bur. 1994).

6. A filing window for Channel 290A at Haileyville, Oklahoma, will not be opened at this time. Instead, the issue of opening this allotment for auction will be addressed by the Commission in a subsequent order.

7. IT IS FURTHER ORDERED, That the petition for rule making filed by Maurice Salsa requesting the allotment of Channel 290A at Atoka, Oklahoma (RM-10264), IS DISMISSED.

8. IT IS FURTHER ORDERED, That the petition for rule making filed by Linda Crawford requesting the allotment of Channel 289A to Clayton, Oklahoma (RM-10376), IS DISMISSED.

9. IT IS FURTHER ORDERED, That this proceeding IS TERMINATED.

10. For further information concerning this proceeding, contact Nancy Joyner, Media Bureau, (202) 418-2180.

FEDERAL COMMUNICATIONS COMMISSION

John A. Karousos  
Assistant Chief, Audio Division  
Media Bureau